

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Anthony D. Holmes, Jr.
206 Eastman Rd.
N. Chesterfield, VA 23236
SSN / ITIN: xxx-xx-7034

Case No. 22-30027-KRH
Chapter 7

**NOTICE OF THE UNITED STATES TRUSTEE'S
MOTION FOR RULE 2004 EXAMINATION**

PLEASE TAKE NOTICE THAT the United States Trustee has filed with the Court a **Motion for Rule 2004 Examination** (the "Motion") in the above-captioned case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the Motion or if you want the Court to consider your views on the Motion, then on or before **June 7, 2022**, you or your attorney must:

(X) File with the Court, at the address below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 2004-1]. You must mail or otherwise file it early enough so the Court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street – Suite 400
Richmond, Virginia 23219

You must also mail a copy to:

Jason B. Shorter, Esq.
Office of the United States Trustee
701 E. Broad Street – Suite 4304
Richmond, VA 23219

Kathryn R. Montgomery, Esq., AUST (VSB No. 42380)
Shannon Pecoraro, Esq. (VSB No. 46864)
Jason B. Shorter, Esq. (VSB No. 80929)
Office of the United States Trustee
701 East Broad St., Suite 4304
Richmond, VA 23219
Phone (804) 771-2310
Fax: (804) 771-2330

(X) Attend a hearing, which may be scheduled at a later date. You will receive a separate notice of hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting the relief requested.

Date: May 31, 2022

JOHN P. FITZGERALD, III
Acting United States Trustee
Region Four

/s/ Jason B. Shorter
Jason B. Shorter, Esq.
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

CERTIFICATION OF SERVICE

I hereby certify that on May 31, 2022, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. In addition, a copy was mailed to the following:

Anthony D. Holmes, Jr.
206 Eastman Rd.
N. Chesterfield, VA 23236

Juanita Holmes
206 Eastman Rd.
N. Chesterfield, VA 23236

By /s/ Jason B. Shorter
Jason B. Shorter, Esq.
Trial Attorney

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Anthony D. Holmes, Jr.
206 Eastman Rd.
N. Chesterfield, VA 23236

Case No. 22-30027-KRH
Chapter 7

UNITED STATES TRUSTEE’S MOTION FOR RULE 2004 EXAMINATION

COMES NOW JOHN P. FITZGERALD, III, Acting United States Trustee for Region Four (the “United States Trustee”), by and through the undersigned counsel, seeking entry of an order authorizing examination of **Juanita Holmes** of 206 Eastman Road, N. Chesterfield, VA 23236, individually and in her capacity as member-manager of J and A Electrical Repair Services, LLC, pursuant to Federal Rule of Bankruptcy Procedure 2004 (this “Motion”). In support whereof, the United States Trustee shows as follows:

Factual Background

A. Initial Background

1. Anthony D. Holmes, Jr. (“Debtor”) commenced the instant case with a voluntary petition (the “Petition”) filed on January 6, 2022. He is represented by Bruce W. White, Esq.
2. Bruce E. Robinson, Esq., was appointed chapter 7 trustee (“Trustee”). As of this date, the Trustee has not concluded the meeting of creditors. That meeting was initially held on February 8, 2022, then adjourned to April 18, 2022, and is currently adjourned to June 14, 2022.

Kathryn R. Montgomery, Esq., AUST (VSB No. 42380)
Shannon Pecoraro, Esq. (VSB No. 46864)
Jason B. Shorter, Esq. (VSB No. 80929)
Office of the United States Trustee
701 East Broad St., Suite 4304
Richmond, VA 23219
Phone (804) 771-2310
Fax: (804) 771-2330

3. The non-filing spouse of the Debtor is Juanita Holmes, who is the subject of this request to conduct a 2004 examination.

B. The Pre-Petition Business, the Lawsuit, and the Creation of a New Entity

4. Pre-petition the Debtor operated and owned 100% of the membership of an entity known as AH Contractors LLC (“AH Contractors”), which was formed in 2002. The Debtor was a general contractor engaged through AH Contractors in electrical repair and contracting work.

5. Pre-petition the Debtor was engaged in protracted litigation with a creditor listed in his Schedule E/F, that creditor being Tamika Atkins (“Atkins”), whose claim is scheduled as unsecured for \$59,449.63.

6. In August 2014, AH Contractors sued Atkins and several other parties in the Circuit Court for the City of Richmond, Virginia (the “Pre-Petition Suit”). Atkins responded to AH Contractors’ suit against her and asserted counterclaim(s). After several trials and an appeal to the Virginia Supreme Court, Atkins was awarded a judgment against AH Contractors and the Debtor following a trial (the “Trial”) held on September 17, 2020. The judgment amount was \$59,494.63 (the “Final Judgment”). No appeal was taken of the Final Judgment. The Final Judgment order was entered of record on March 17, 2021. The Final Judgment pierced the corporate veil of AH Contractors and imposed liability on the Debtor jointly and severally.

7. Following the Trial, but before entry of the Final Judgment order, an entity named J and A Electrical Repair Services, LLC (“J&A Electrical”), was formed with the Virginia State Corporation Commission on November 13, 2020. According to the Debtor, his wife, Juanita Holmes, is the owner of J&A Electrical. Paul R. Mack, Esq., the attorney that represented the Debtor and AH Contractors in the Pre-Petition Suit, organized J&A Electrical with the Virginia State Corporation Commission.

8. Upon information and belief, although the Debtor has held a contractor's and tradesman's license in Virginia for more than twenty (20) years, Juanita Holmes has never been licensed by the Virginia Department of Professional and Occupational Regulation in contracting, electrical work, and/or any related field. According to Schedule I filed in this case, she is disabled.

9. On or around April 22, 2021, J&A Electrical opened a bank account with Atlantic Union Bank. From and after that date, the Debtor made the deposits of funds to the account received from customers according to his 341 meeting testimony. Over the course of April 22, 2021, through the Petition date of January 6, 2022, deposits totaling \$93,276.43 were made to J&A Electrical's bank account. Three days before the Debtor filed his Petition, J&A Electrical held \$14,594.70 in its Atlantic Union Bank account. The Debtor's credit counseling class was paid with funds in J&A Electrical's Atlantic Union Bank account. Upon information and belief, the Debtor uses J&A Electrical's account to make payments for personal obligations like credit cards and for regular personal expenses.

10. The United States Trustee has requested but not received copies of cleared checks drawn on the Atlantic Union Bank account for J&A Electrical. Such information, among other things, will be requested via this examination.

C. The Attempt to Conceal the New Business

11. On the January 6th Petition date, the Debtor filed initial schedules with the voluntary Petition.

12. In initial Schedule I regarding the Debtor's employment, the Debtor indicated he was employed but did not disclose any information regarding who he maintained he was employed by -- namely the business J&A Electrical:

Part 1: Describe Employment**1. Fill in your employment information.**

If you have more than one job, attach a separate page with information about additional employers.

Include part-time, seasonal, or self-employed work.

Occupation may include student or homemaker, if it applies.

Employment status

- ☒ Employed
☐ Not employed

Occupation**Employer's name****Employer's address****How long employed there?****Debtor 2 or non-filing spouse**

- ☐ Employed
☐ Not employed

13. In initial Schedule I, the Debtor did not disclose the fact his wife operated the entity

J&A Electrical:

Debtor 2 or non-filing spouse			
<input type="checkbox"/> Employed	6. Add the payroll deductions. Add lines 5a+5b+5c+5d+5e+5f+5g+5h.	6. \$	0.00
<input type="checkbox"/> Not employed	7. Calculate total monthly take-home pay. Subtract line 6 from line 4.	7. \$	3,250.00
	8. List all other income regularly received:		
	8a. Net income from rental property and from operating a business, profession, or farm. Attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.	8a. \$	0.00
	8b. Interest and dividends	8b. \$	0.00
	8c. Family support payments that you, a non-filing spouse, or a dependent regularly receive. Include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement.	8c. \$	0.00
	8d. Unemployment compensation	8d. \$	0.00
	8e. Social Security	8e. \$	0.00
	8f. Other government assistance that you regularly receive		

14. In Schedule I, the only source of income reported for the Debtor's wife was social security of approximately \$750.00 per month. Thus, combined with the Debtor's own stated income of \$3,250, the couple's take home pay was reported as \$4,000 per month. The monthly deposits to J&A Electrical's bank account average \$10,364.00 per month. The United States Trustee has not yet been able to verify the nature of expenses, if any, flowing out of the account and seeks to examine Juanita Holmes with respect to this, and other issues regarding J&A Electrical. However, as set forth above, and upon information and belief, the Debtor uses J&A Electrical's account to make payments for personal obligations like credit cards and for regular personal expenses.

15. The Debtor's Statement of Financial Affairs similarly conceals J&A Electrical's existence. First, at Part 2, Line 4, the Debtor omitted his wife's operation of J&A Electrical:

4. Did you have any income from employment or from operating a business during this year or the two previous calendar years?
Fill in the total amount of income you received from all jobs and all businesses, including part-time activities.
If you are filing a joint case and you have income that you receive together, list it only once under Debtor 1.

☐ No
☒ Yes. Fill in the details.

	Debtor 1		Debtor 2
	Sources of income Check all that apply.	Gross income (before deductions and exclusions)	Sources of income Check all that apply.
			Gross income (before deductions and exclusions)
For last calendar year: (January 1 to December 31, 2021)	<input checked="" type="checkbox"/> Wages, commissions, bonuses, tips	\$25,000.00	<input type="checkbox"/> Wages, commissions, bonuses, tips
	<input type="checkbox"/> Operating a business		<input checked="" type="checkbox"/> Operating a business

16. The United States Trustee continues to review transactions related to the creation of J&A Electrical and reserves the right to show additional omissions in the Debtor's schedules and statements in relation to this set of facts.

17. Following the initial meeting of creditors -- and after examination of Mr. Holmes in relation to his employment and financial affairs generally -- the Debtor first amended his schedules to disclose his relationship to J&A Electrical.

ARGUMENT

Federal Rule of Bankruptcy Procedure 2004 allows for examination of any entity by order of the Court. Fed. R. Bankr. P. 2004(a). The scope of the examination, as set forth in the Rule, may relate to "the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate . . . [.]” Fed. R. Bankr. P. 2004(b).

In this case, the United States Trustee submits it is appropriate to examine the Debtor's spouse, Juanita Holmes. As alleged by the Debtor at his 341 meeting, Juanita Holmes is the owner of J&A Electrical, his purported employer. To date, the United States Trustee has requested certain information from J&A Electrical, including copies of cleared checks drawn on its account. To date, the United States Trustee has not received a complete response.

Wherefore, the United States Trustee respectfully requests that this Motion be granted; that Juanita Holmes be required to participate in an examination under Federal Rule of Bankruptcy Procedure 2004 at a time and place designated by the United States Trustee (via telephonic and/or video-conferencing format if deemed appropriate); and that the United States Trustee have such other and further relief which the Court deems proper.

Respectfully submitted,

Dated: May 31, 2022

John P. Fitzgerald, III
Acting United States Trustee

By: /s/ Jason B. Shorter
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

CERTIFICATION OF SERVICE

I hereby certify that on May 31, 2022, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. In addition, a copy was mailed to the following:

Anthony D. Holmes, Jr.
206 Eastman Rd.
N. Chesterfield, VA 23236

Juanita Holmes
206 Eastman Rd.
N. Chesterfield, VA 23236

By /s/ Jason B. Shorter
Jason B. Shorter, Esq.
Trial Attorney